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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,088	02/17/2004	Robert J. Simmons	J-BSIM.1011	3395
56703	7590	06/13/2007		
ROBERT D. VARITZ, P.C. 4915 SE 33RD PLACE PORTLAND, OR 97202			EXAMINER WENDELL, MARK R	
			ART UNIT	PAPER NUMBER
			3609	
			MAIL DATE	DELIVERY MODE
			06/13/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/781,088	SIMMONS, ROBERT J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark R. Wendell	3609	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Priority***

Priority to the provisional application entitled, "Overhead, Hidden Building Conduit Infrastructure" is objected to by the examiner. The Oath and Declaration makes reference to the above-mentioned provisional application as number 60/449477. However, the specification makes reference to the same provisional application as number 60/499477. Priority to the application number 60/449477 will be granted if the applicant makes the appropriate correction within the specification.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the height, H3, in Figure 1 as described in the specification. It appears that the label for the height was omitted. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes

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made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: Page 3, line 18, the phrasing "and not later to be interrupted" should be re-worded to be comprehensible. Page 6, line 20, the word "for" should be capitalized.

Appropriate correction is required.

### ***Claim Objections***

Claims 1, 4, and 6 are objected to because of the following informalities: A colon should be inserted after the word "comprising" in line 1 of each of the claims. Appropriate correction is required.

Claim 6 is objected to because of the following informalities: The word "spaced" in line 6, should be replaced with the word "space."

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrasing "directly vertically intermediate" should be reworded to be comprehensible. For examination purposes, the phrase was taken to mean directly in between two vertically stacked stories.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al. (US 6625937). Parker illustrates in Figures 3A and 6 a plural-story building comprising:

- A pair of vertically spaced stories including a lower and higher story, each having a normal full-plate height and volume (see modified Figure below); and,
- A utilities-conduit containment space in between the lower and higher stories (see modified Figure below).

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The examiner notes that the utilities-conduit containment space of Parker is "adapted to contain utilities conduit structure." The examiner further notes that the containment space of Parker is capable of housing utilities, or utility conduits.

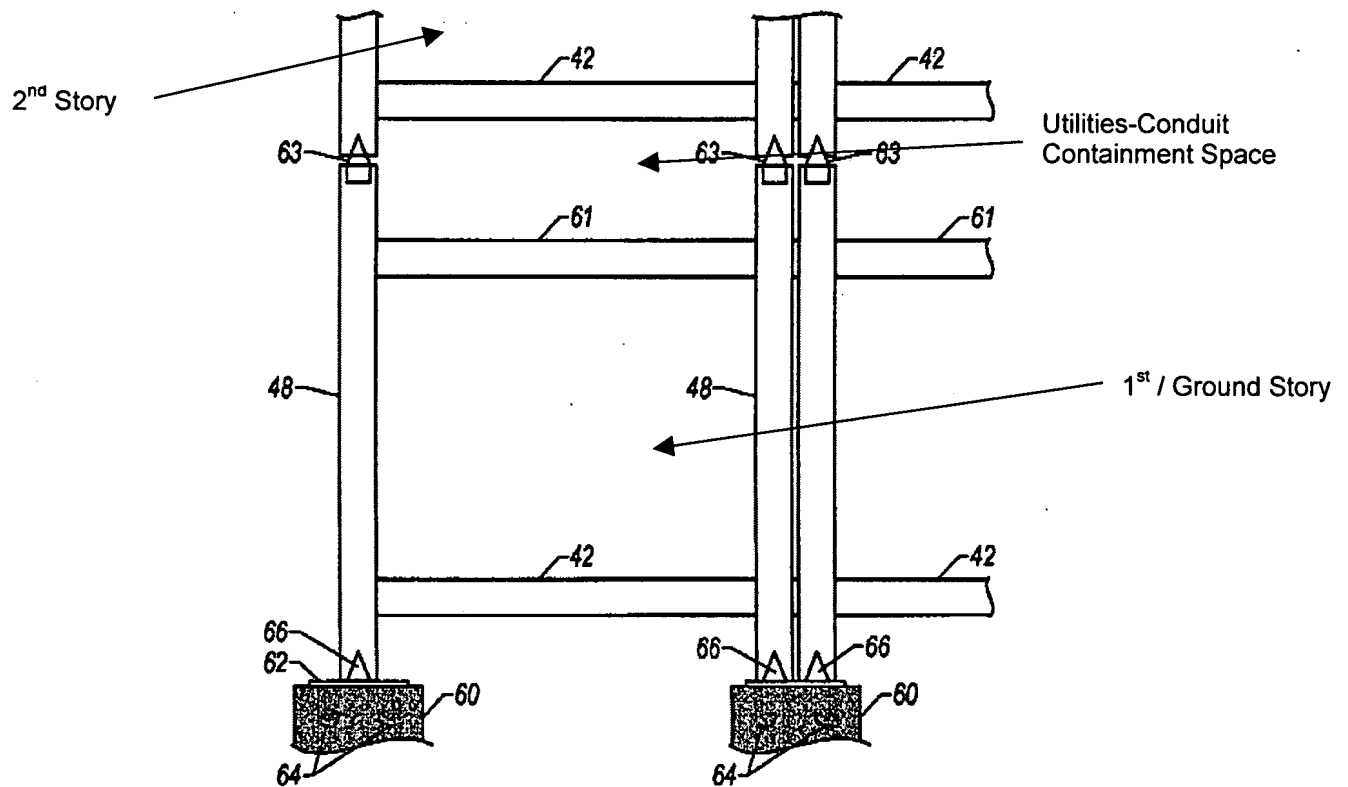
**FIG. 6**

Figure 6 of Parker

Regarding claim 2, Parker discloses that the containment space is built with support beams (61) made from steel. It is notoriously well known within the art of building construction that steel is water impervious. Therefore the containment space, with its underlying steel supports, is "appropriately lined" (with the metal support lining the floor) against liquid drainage to the lower story.

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Regarding claim 3, Parker illustrates in Figure 6 and discloses in Column 5, lines 7-10, the lower story being a ground level story.

Regarding claim 6, Parker illustrates in Figures 3A and 6 a plural-story building comprising:

- A vertical stack of stories including plural normal-height stories (see modified Figure above);
- A less-than-normal-height sub-story with an internal volume (see modified Figure above).

The examiner notes that the sub-story of Parker is “adapted to contain utilities conduit structure.” The phrase “adapted to” is vague and the examiner notes that the sub-story of Parker could house utilities, or utility conduits.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

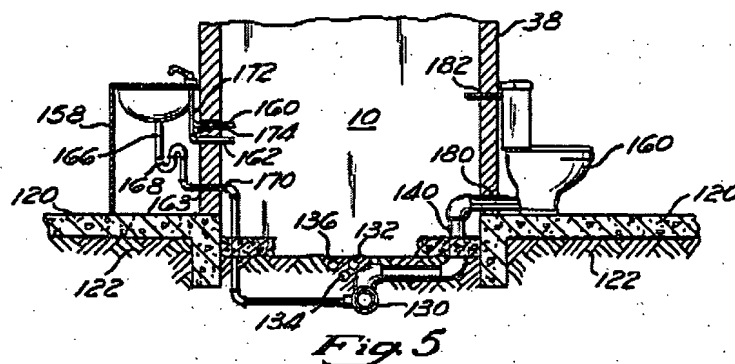
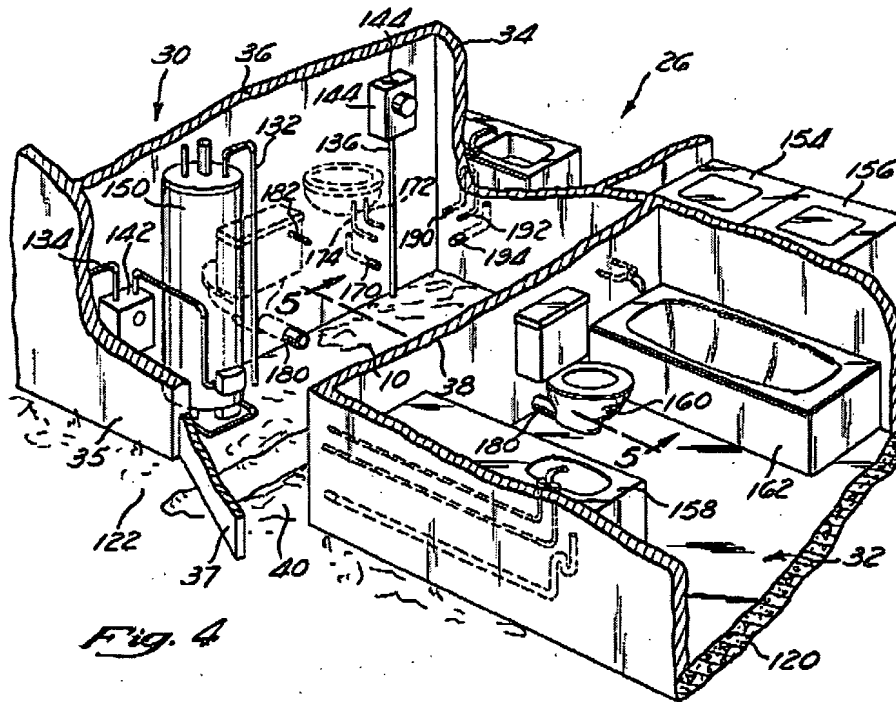
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. (US 6625937) in view of Douglass, Jr. (US 4341052). It is described above for

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claims 1-3 and 6 what is disclosed, or illustrated, in Parker. Parker does not disclose a utility-conduit structure within the containment space that includes supply-input portions. However, Douglass illustrates in Figures 4 and 5 a containment space (30) with utility supply-input portions (160, 162, 170, 140). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the containment space of Parker to include the utility supply-input portions of Douglass with the motivation of providing utilities to an adjacent room.





Figures 4 and 5 of Douglass, Jr.

Regarding claim 5, Parker discloses that the containment space is built with support beams (61) made from steel. It is notoriously well known within the art of building construction that steel is water impervious. Therefore the containment space, with its

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underlying steel supports, is "appropriately lined" (with the metal support lining the floor) against liquid drainage to the lower story.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Palmer (US 4860503) teaches a plumbing apparatus connecting wastewater receptacles between different stories of a building. Behncke (US 4416578) teaches a multi-story elevator garage. Horn (US 4807407) teaches a modular building system for a three-story structure.


The examiner notes that is generally well known within the art of building construction that high rise structures have a separate story specifically for utilities and utility hook-ups. As a rule of thumb, skyscrapers require a mechanical floor (whose primary purpose is heating, ventilation, and air conditioning), for every 10 floors. For example the Petronas Towers in Kuala Lumpur, Malaysia (constructed 1995-1998), and the Sears Tower, have stories or levels specifically dedicated to utilities and utility connections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson  
Supervisory Patent Examiner  
Art Unit 3609

MW  
June 8, 2007